

HOUSE BILL 3045
By Sands

AN ACT to amend Tennessee Code Annotated, Title 55, Chapter 50, relative to driver licenses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-50-511, is amended by deleting such section in its entirety and by substituting instead the following:

Section 55-50-511. (a) Any person who has received a notice of revocation under § 55-50-502(a)(10) may request an administrative review. The request shall be accompanied by any relevant evidence, deemed appropriate by the department, which the person wants the department to consider in reviewing the determination made pursuant to § 49-6-3017.

(b) When a request for administrative review is made, the department shall review the determination made pursuant to § 49-6-3017. In the review, the department shall give consideration to any relevant evidence accompanying the request for the review. If the department determines, by the preponderance of the evidence, that the person has withdrawn from school or has failed to maintain satisfactory academic progress, the department shall sustain the order of revocation. If the evidence does not support such a determination, the department must rescind the order of revocation. The determination of the department upon administrative review is final unless a hearing is requested under § 55-50-512.

(c) The department shall make a determination upon administrative review prior to the effective date of the revocation order if the request for the review is received by the department

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within thirty (30) days following service of the notice of revocation. Where the request for administrative review is received by the department more than thirty (30) days following service of the notice of revocation, the department shall make its determination within seven (7) working days following the receipt of the request for review.

(d) A request for administrative review does not stay the license revocation. If the department is unable to make a determination within the time limits specified in subsection (c), it shall stay the revocation pending that determination.

(e) The request for administrative review and submission of relevant evidence shall be made by mail on a form supplied by the department. The department shall provide forms which the person may use to request an administrative review and to submit a sworn statement, but use of the forms is not required.

SECTION 2. Tennessee Code Annotated, Section 55-50-512, is amended by deleting such section in its entirety and by substituting instead the following:

Section 55-50-512. (a) Any person who has received a notice of revocation may make a written request for a review of the department's determination by the department at a hearing. The request shall be made on a form available from the department. If the person's driver license has not been previously surrendered, it must be surrendered at the time the request for a hearing is made. A request for a hearing does not stay the license revocation.

(b) The hearing shall be scheduled to be held as quickly as practicable within not more than twenty (20) days of the filing of the request for a hearing. The hearing shall be held at a place designated by the department, unless the parties agree to a different location. The department shall provide a written notice of the time and place of the hearing to the party requesting the hearing at least ten (10) days prior to the scheduled hearing, unless the parties agree to waive this requirement.

(c) The presiding hearing officer shall be the commissioner or an authorized representative designated by the commissioner. The presiding hearing officer shall have the authority to:

- (1) Administer oaths and affirmations;
- (2) Examine witnesses and take testimony;
- (3) Receive relevant evidence;
- (4) Issue subpoenas, take depositions, or cause depositions to interrogatories to be taken;
- (5) Regulate the course and conduct of the hearing; and
- (6) Make a final ruling on the issue.

(d) The sole issue at the hearing shall be whether by a preponderance of the evidence the person has withdrawn from school or has failed to maintain satisfactory academic progress. If the presiding hearing officer finds the affirmative of this issue, the revocation order shall be sustained. If the presiding hearing officer finds the negative of this issue, the revocation order shall be rescinded.

(e) The hearing shall be recorded. The decision of the presiding hearing officer shall be rendered in writing, and a copy will be provided to the person who requested the hearing.

(f) If the person who requested the hearing fails to appear without just cause, the right to a hearing shall be waived, and the department's earlier determination shall be final.

(g) Witnesses under subpoena shall be entitled to the same fees as are now or may hereafter be provided for witnesses in civil actions in the circuit court and, unless otherwise provided by law or by action of the agency, the party requesting the subpoenas shall bear the cost of paying fees to the witnesses subpoenaed.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.